



DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Financial Crimes Enforcement Network Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by e-mailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

1. *Title:* Transactions of Exempt Person and FinCEN Report 110 – DOEP Report.

OMB Control Number: 1506-0012.

Type of Review: Extension without change of a currently approved collection.

Description: The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Pub. L. 107–56) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, inter alia, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement anti-money laundering (AML) programs and compliance procedures. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X.

The requirement for financial institutions to report certain transactions in currency has been an important component of the BSA from its inception. Regulations implementing this requirement have long established a one-person, one-day, one-institution aggregate currency transaction threshold of \$10,000, above which every financial institution must file a Currency Transaction Report (CTR). The Money Laundering Suppression Act of 1994 amended the BSA to create certain mandatory exemptions applicable to banks from the requirement for financial institutions to file CTRs, and to give the Secretary authority to create additional such exemptions. Regulations implementing this exemption authority, including by requiring the collection of information on the DOEP Report, are found at 31 CFR 1020.315.

Under 31 CFR 1020.315(a), a bank is not required to file a CTR with respect to any transaction in currency between exempt persons and the bank, or between an exempt person and other banks that are affiliated with the bank.

31 CFR 1020.315(b) sets out that an exempt person is: (1) A bank, to the extent of such bank's domestic operations; (2) a department or agency of the United States, of any State, or of

any political subdivision of any State; (3) any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact, that exercises governmental authority on behalf of the United States, any such State, or any such political subdivision; (4) any entity, other than a bank, whose common stock or analogous equity interests are listed on the New York Stock Exchange, the American Exchange, or the NASDAQ Stock Market (a “listed entity”), provided that, if the listed entity is a financial institution other than a bank, it is an exempt person only to the extent of its domestic operations; (5) any subsidiary, other than a bank, of a listed entity mentioned in the previous item (4) that is organized under the laws of the United States or of any State, provided that the listed entity owns at least 51 percent of the equity interest of the subsidiary, and subject to the qualification that if the subsidiary is a financial institution other than a bank, it is an exempt person only to the extent of its domestic operations; (6) any other commercial enterprise, with certain exceptions, that maintains a transaction account at the bank for at least two months, frequently engages in transactions with the bank in currency in excess of \$10,000, and is incorporated or organized under the laws of, or is registered as and eligible to do business within, the United States or a State (a “non-listed business”), but only to the extent of the non-listed business customers' domestic operations and only with respect to transactions conducted through the non-listed business customer's exemptible accounts; or (7) any other person, with certain exceptions, that maintains a transaction account at the bank for at least two months, operates a firm that frequently withdraws more than \$10,000 in order to pay its U.S. employees in currency, and is incorporated or organized under the laws of, or is registered as and eligible to do business within, the United States or a State (a “payroll customer”), but solely with respect to withdrawals for payroll purposes from existing exemptible accounts.

31 CFR 1020.315(c)(1) requires a bank to designate an exempt person by filing the DOEP Report within 30 calendar days after the day of the first reportable transaction in currency with that person that the bank seeks to exempt from reporting. A bank holding company or one

of its bank subsidiaries may make such a designation on behalf of any or all of the bank holding company's bank subsidiaries by listing those bank subsidiaries in the DOEP Report that it files. However, a bank is not required to file a DOEP Report for transfer of currency to or from (1) any of the 12 Federal Reserve Banks, (2) a bank, to the extent of such bank's domestic operations, (3) a department or agency of the United States, of any State, or of any political subdivision of any State, or (4) any entity established under the laws of the United States, any State, or any political subdivision of any State, or under an interstate compact between two or more States, that exercises governmental authority on behalf of the United States or any such State or political subdivision.

31 CFR 1020.315(d) requires a bank to review at least once annually the continued eligibility of an exempt person that is a (1) listed entity, (2) subsidiary of a listed entity, (3) non-listed business customer, or (4) payroll customer. As part of the annual review, a bank must also review the application to each existing account of a non-listed business or payroll customer of the monitoring system that 31 CFR 1020.315(h)(2) requires the bank to maintain (related to suspicious activity monitoring).

Under 31 CFR 1020.315(e), a bank must take steps to assure itself that an exempt person meets the definition of that term (see 31 CFR 1020.315(b), summarized above), document the basis for its conclusion, and document its compliance with the terms of the exemption, including the operating rules in 31 CFR 1020.315(e)(2)-(9). A bank must also take steps to document compliance with its suspicious activity monitoring obligations under 31 CFR 1020.315(h)(2). The steps that the bank takes under 31 CFR 1020.315(e) must be those that a reasonable and prudent bank would take and document to protect itself from fraud or loss based on misidentification of a person's status and, in the case of the suspicious activity monitoring obligations, to identify suspicious transactions.

31 CFR 1020.315(h)(1) states that the CTR exemption rules do not relieve a bank of its obligation to report any suspicious transactions pursuant to 31 CFR 1020.320, including any

suspicious transactions or attempted transactions in currency associated with the accounts of an exempt person, or relieve a bank of any other reporting or recordkeeping obligation imposed under the authority of the BSA.

Under 31 CFR 1020.315(h)(2), a bank must establish and maintain a monitoring system that is reasonably designed to detect, for each account of a non-listed business or payroll customer, transactions in currency that would require a bank to file a suspicious activity report (SAR).

Form: FinCEN Report 110 – DOEP Report.

Affected Public: Businesses or other for-profit institutions; Not-for-profit institutions.

Estimated Number of Respondents: 11,161.

Frequency of Response: As required.

Estimated Total Number of Annual Responses: 18,141.

Estimated Time per Response: 45 minutes for reporting, 15 minutes for recordkeeping.

Estimated Total Annual Burden Hours: 18,141 hours.

2. *Title:* Additional records to be made and retained by dealers in foreign exchange and brokers or dealers in securities.

OMB Control Number: 1506-0052 and 1506-0053.

Type of Review: Extension without change of a currently approved collection.

Description: The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Pub. L. 107–56) and other legislation. The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, inter alia, to require financial institutions to keep records and file reports that are determined to have a high degree of

usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement anti-money laundering (AML) programs and compliance procedures. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X.

a. 31 CFR 1022.410—Additional Records To Be Made and Retained by Dealers in Foreign Exchange

31 CFR 1022.410(a) requires a dealer in foreign exchange to make and maintain a record of the taxpayer identification number of certain persons for whom a transaction account is opened or a line of credit is extended, within 30 days of opening such an account or extending such a line of credit, or longer if the person has applied for a taxpayer identification or social security number. A dealer in foreign exchange must also maintain a list containing the names, addresses, and account or credit line numbers of those persons from whom it has been unable to secure such information despite reasonable efforts. A dealer in foreign exchange need not attempt to secure such information if the person is an agency or instrumentality of a Federal, state, local, or foreign government using an account for public funds, one of several categories of aliens that are not permanent resident aliens, or an unincorporated subordinate unit of a tax exempt organization covered by a group exemption letter.

Under 31 CFR 1022.410(b), a dealer in foreign exchange must also retain the original or a copy of nine types of documents: (1) Statements of accounts from banks, including documents representing the entries reflected on such statements; (2) daily work records, including documents needed to identify and reconstruct currency transactions with customers and foreign banks; (3) a record of each exchange of currency involving transactions in excess of \$1,000, including the customer's name and address (and passport or tax identification number unless received by mail or common carrier), the date and amount of the transaction, and the currency name, country, and total amount of each foreign currency; (4) signature cards or other documents evidencing signature authority over each deposit or security account, containing specified items

of information about the customer (including a record of the actual owner of the account if customer accounts are maintained in a code name); (5) each item, including checks, drafts, and transfers of credit, of more than \$10,000 remitted or transferred to a person, account, or place outside the United States; (6) a record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account, or place outside the United States; (7) records prepared or received by the dealer in foreign exchange in the ordinary course of business that would be needed to reconstruct an account and trace a check in excess of \$100 deposited in such an account through its internal recordkeeping system to its depository institution, or to supply a description of such a deposited check; (8) a record of the name, address and taxpayer identification number of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction; and (9) a system of books and records that enables the dealer in foreign exchange to prepare an accurate balance sheet and income statement. To the extent that these records include originals or copies of checks, drafts, monetary instruments, investment securities, or other similar instruments, copies of front and back of such instruments must generally be retained. [3] The required records must be maintained for five years.

b. 31 CFR 1023.410—Additional Records To Be Made and Retained by Brokers or Dealers in Securities

Until October 1, 2003, 31 CFR 1023.410(a) required a broker or dealer in securities to make a record of certain information. Until October 1, 2008, a broker or dealer in securities was required to maintain all such records, as well as a list containing the names, addresses, and account or credit line numbers of those persons from whom it had been unable to secure the required information despite reasonable efforts. The customer identification program requirement for brokers or dealers in securities has effectively superseded these requirements.

Under 31 CFR 1023.410(b), a broker or dealer in securities must retain an original or copy of: (1) Each document granting signature or trading authority over each customer's account; (2) a record of each remittance or transfer of funds, currency, checks, other monetary instruments, investment securities, or credit, of more than \$10,000 to a person, account, or place outside the United States; (3) a record of each receipt of currency, other monetary instruments, investment securities, or checks, and of each transfer of funds or credit, of more than \$10,000 on any one occasion, not through a domestic financial institution, from any person, account, or place outside the United States; and (4) each record described in paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) of 17 CFR 240.17a-3(a), covering records to be made by certain exchange members, brokers and dealers as identified in 17 CFR 240.17a-3. To the extent that these records include originals or copies of checks, drafts, monetary instruments, investment securities, or other similar instruments, copies of front and back of such instruments must generally be retained. The required records must be maintained for five years.

Form: Not applicable.

Affected Public: Businesses or other for-profit institutions; Not-for-profit institutions.

Estimated Number of Respondents: 923 for 1506-0052; 3640 for 1506-0053.

Frequency of Response: As required.

Estimated Time per Response: 16 hours for 1506-0052; 100 hours for 1506-0053.

Estimated Total Annual Burden Hours: 14,768 for 1506-0052; 364,000 for 1506-0053.

3. *Title:* Purchases of bank checks and drafts, cashier's checks, money orders, and traveler's checks.

OMB Control Number: 1506-0057.

Type of Review: Extension without change of a currently approved collection.

Description: The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and

Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Pub. L. 107–56) and other legislation.

The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, 31 U.S.C. 5311–5314 and 5316–5332, and notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement anti-money laundering (AML) programs and compliance procedures. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X.

The BSA prohibits financial institutions from issuing any “bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of \$3,000 or more” unless the individual either has a verified transaction account with the financial institution or furnishes the financial institution with the information required by regulations and that information is verified and recorded by the financial institution; financial institutions must record the method of account verification or the information required to be furnished. To implement these requirements, FinCEN issued a regulation requiring financial institutions to maintain records of the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks. The regulation on its face applies to all financial institutions as defined in 31 CFR 1010.100(t). However, as a practical matter banks and money services businesses (MSBs) are the types of financial institutions most likely to be issuing or selling bank checks and drafts, cashier's checks, money orders, and traveler's checks.

Under 31 CFR 1010.415, financial institutions are required to maintain records of certain information related to the issuance or sale of bank checks and drafts, cashier's checks, money orders, and traveler's checks when the issuance or sale involves currency between \$3,000-

\$10,000, inclusive, to any individual purchaser of one or more of these instruments. Under 31 CFR 1010.415(a)(1)(i), if the purchaser has a deposit account with the financial institution, the financial institution is required to maintain records of: (A) The name of the purchaser; (B) the date of purchase; (C) the type(s) of instrument(s) purchased; (D) the serial number(s) of each of the instrument(s) purchased; and (E) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(1)(ii), the financial institution must also verify that the individual is a deposit account holder or must verify the individual's identity.

Under 31 CFR 1010.415(a)(2)(i), if the purchaser does not have a deposit account with the financial institution, the financial institution must maintain a record of: (A) The name and address of the purchaser; (B) the social security number of the purchaser, or if the purchaser is an alien and does not have a social security number, the alien identification number; (C) the date of birth of the purchaser; (D) the date of the purchase; (E) the type(s) of instrument(s) purchased; (F) the serial number(s) of the instrument(s) purchased; and (G) the amount in dollars of each of the instrument(s) purchased. Under 31 CFR 1010.415(a)(2)(ii), the financial institution must also verify the purchaser's name and address by examination of a document which is normally acceptable as a means of identification when cashing checks for nondepositors and which contains the name and address of the purchaser, and must record the specific identifying information.

Under 31 CFR 1010.415(b), financial institutions must treat contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more as one purchase. Multiple purchases during one business day totaling \$3,000 or more must be treated as one purchase if an individual employee, director, officer, or partner of the financial institution has knowledge that these purchases have occurred.

Under 31 CFR 1010.415(c), financial institutions must retain all required records for a period of five years and make those records available to the Secretary upon request at any time.

Form: Not applicable.

Affected Public: Businesses or other for-profit institutions; Not-for-profit institutions.

Estimated Number of Respondents: 15,677.

Frequency of Response: As required.

Estimated Time per Response: 7.5 hours.

Estimated Total Annual Burden Hours: 117,578 hours.

Authority: 44 U.S.C. 3501 et seq.

Dated: August 3, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

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